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7
8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT OF CALIFORNIA

10 PAMELA BROOKS, individually and
11 as guardian ad litem for C.B.; KEZIAH
12 BROOKS, an individual,

13 Plaintiffs,

14 vs.

15 PREMIER APARTMENTS LLC., a
16 California Limited Liability Company;
17 HAIA LEV, an individual; NOAH
18 LEV, an individual and others to be
19 joined under Rules 19 of the Federal
Rules of Civil Procedure,

20 Defendants.
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Case No.: 2:18-cv-07872-VAP-AFM

~~**PROPOSED**~~
STIPULATED PROTECTIVE
ORDER¹

27
28 ¹ This Stipulated Protective Order is based substantially on the model protective
order provided under Magistrate Judge Alexander F. MacKinnon's Procedures.

1. A. PURPOSES AND LIMITATIONS

Discovery in this action is likely to involve production of confidential, proprietary or private information for which special protection from public disclosure and from use for any purpose other than prosecuting this litigation may be warranted. Accordingly, the parties hereby stipulate to and petition the Court to enter the following Stipulated Protective Order. The parties acknowledge that this Order does not confer blanket protections on all disclosures or responses to discovery and that the protection it affords from public disclosure and use extends only to the limited information or items that are entitled to confidential treatment under the applicable legal principles.

B. GOOD CAUSE STATEMENT

In this action, Plaintiffs allege that Defendants violated anti-discrimination, anti-harassment, and anti-retaliation laws set forth under various federal and state laws, which would entitle Plaintiffs to economic and non-economic damages, punitive damages, and cost of suit including attorneys' fees. Discovery in this case will be directed at (among other things), Defendants' rent rolls, potentially sensitive information regarding Defendants' other tenants at the Subject Property, Defendants' internal emails, and Defendants' finances. This is all information generally unavailable to the public, or which may be privileged or otherwise protected from disclosure under state or federal statutes, court rules, case decisions, or common law. These documents deserve special protection from public disclosure and from use for any purpose other than prosecution of this action.

Accordingly, to expedite the flow of information, to facilitate the prompt resolution of disputes over confidentiality of discovery materials, to adequately protect information the parties are entitled to keep confidential, to ensure that the parties are permitted reasonably necessary uses of such material in preparation for

1 and in the conduct of trial, to address their handling at the end of the litigation, and
2 serve the ends of justice, a protective order for such information is justified in this
3 matter. It is the intent of the parties that information will not be designated as
4 “CONFIDENTIAL” (as defined below) for tactical reasons and that nothing be so
5 designated as confidential for tactical reasons and that nothing be so designated
6 without a good faith belief that it has been maintained in a confidential, non-public
7 manner, and there is good cause why it should not be part of the public record of
8 this case.

9
10 C. ACKNOWLEDGMENT OF PROCEDURE FOR FILING UNDER
11 SEAL

12 The parties further acknowledge, as set forth in Section 12.3, below, that this
13 Stipulated Protective Order does not entitle them to file confidential information
14 under seal; Local Civil Rule 79-5 sets forth the procedures that must be followed
15 and the standards that will be applied when a party seeks permission from the court
16 to file material under seal.

17
18 There is a strong presumption that the public has a right of access to
19 judicial proceedings and records in civil cases. In connection with non-dispositive
20 motions, good cause must be shown to support a filing under seal. *See Kamakana*
21 *v. City and County of Honolulu*, 447 F.3d 1172, 1176 (9th Cir. 2006), *Phillips v.*
22 *Gen. Motors Corp.*, 307 F.3d 1206, 1210-11 (9th Cir. 2002), *Makar-Welbon v. Sony*
23 *Electrics, Inc.*, 187 F.R.D. 576, 577 (E.D. Wis. 1999) (even stipulated protective
24 orders require good cause showing), and a specific showing of good cause or
25 compelling reasons with proper evidentiary support and legal justification, must be
26 made with respect to Protected Material that a party seeks to file under seal. The
27 parties’ mere designation of Disclosure or Discovery Material as
28 CONFIDENTIAL does not—without the submission of competent evidence by

1 declaration, establishing that the material sought to be filed under seal qualifies as
2 confidential, privileged, or otherwise protectable—constitute good cause.

3 Further, if a party requests sealing related to a dispositive motion or trial,
4 then compelling reasons, not only good cause, for the sealing must be shown, and
5 the relief sought shall be narrowly tailored to serve the specific interest to be
6 protected. *See Pintos v. Pacific Creditors Ass’n.*, 605 F.3d 665, 677-79 (9th Cir.
7 2010). For each item or type of information, document, or thing sought to be filed
8 or introduced under seal in connection with a dispositive motion or trial, the party
9 seeking protection must articulate compelling reasons, supported by specific facts
10 and legal justification, for the requested sealing order. Again, competent evidence
11 supporting the application to file documents under seal must be provided by
12 declaration.

13 Any document that is not confidential, privileged, or otherwise protectable
14 in its entirety will not be filed under seal if the confidential portions can be
15 redacted. If documents can be redacted, then a redacted version for public viewing,
16 omitting only the confidential, privileged, or otherwise protectable portions of the
17 document, shall be filed. Any application that seeks to file documents under seal in
18 their entirety should include an explanation of why redaction is not feasible.
19

20
21 **2. DEFINITIONS**

22 2.1 Action: *Pamela Brooks, et al. v. Premier Apartments LLC, et al.*,
23 2:18-cv-07872-VAP-AFM, United States District Court for the Central District of
24 California.

25 2.2 Challenging Party: a Party or Non-Party that challenges the
26 designation of information or items under this Order.

27 2.3 “CONFIDENTIAL” Information or Items: information (regardless of
28 how it is generated, stored or maintained) or tangible things that qualify for

1 protection under Federal Rule of Civil Procedure 26(c), and as specified above in
2 the Good Cause Statement.

3 2.4 Counsel: Outside Counsel of Record and House Counsel (as well as
4 their support staff).

5 2.5 Designating Party: a Party or Non-Party that designates information
6 or items that it produces in disclosures or in responses to discovery as
7 “CONFIDENTIAL.”

8 2.6 Disclosure or Discovery Material: all items or information, regardless
9 of the medium or manner in which it is generated, stored, or maintained (including,
10 among other things, testimony, transcripts, and tangible things), that are produced
11 or generated in disclosures or responses to discovery in this matter.

12 2.7 Expert: a person with specialized knowledge or experience in a
13 matter pertinent to the litigation who has been retained by a Party or its counsel to
14 serve as an expert witness or as a consultant in this Action.

15 2.8 House Counsel: attorneys who are employees of a party to this
16 Action. House Counsel does not include Outside Counsel of Record or any other
17 outside counsel.

18 2.9 Non-Party: any natural person, partnership, corporation, association,
19 or other legal entity not named as a Party to this action.

20 2.10 Outside Counsel of Record: attorneys who are not employees of a
21 party to this Action but are retained to represent or advise a party to this Action
22 and have appeared in this Action on behalf of that party or are affiliated with a law
23 firm that has appeared on behalf of that party, and includes support staff.

24 2.11 Party: any party to this Action, including all of its officers, directors,
25 employees, consultants, retained experts, and Outside Counsel of Record (and their
26 support staffs).

27 2.12 Producing Party: a Party or Non-Party that produces Disclosure or
28 Discovery Material in this Action.

1 2.13 Professional Vendors: persons or entities that provide litigation
2 support services (e.g., photocopying, videotaping, translating, preparing exhibits or
3 demonstrations, and organizing, storing, or retrieving data in any form or medium)
4 and their employees and subcontractors.

5 2.14 Protected Material: any Disclosure or Discovery Material that is
6 designated as “CONFIDENTIAL.”

7 2.15 Receiving Party: a Party that receives Disclosure or Discovery
8 Material from a Producing Party.

9
10 3. SCOPE

11 The protections conferred by this Stipulation and Order cover not only
12 Protected Material (as defined above), but also (1) any information copied or
13 extracted from Protected Material; (2) all copies, excerpts, summaries, or
14 compilations of Protected Material; and (3) any testimony, conversations, or
15 presentations by Parties or their Counsel that might reveal Protected Material.

16 Any use of Protected Material at trial shall be governed by the orders of the
17 trial judge. This Order does not govern the use of Protected Material at trial.

18
19 4. DURATION

20 Once a case proceeds to trial, information that was designated as
21 CONFIDENTIAL or maintained pursuant to this protective order used or
22 introduced as an exhibit at trial becomes public and will be presumptively
23 available to all members of the public, including the press, unless compelling
24 reasons supported by specific factual findings to proceed otherwise are made to the
25 trial judge in advance of the trial. *See Kamakana*, 447 F.3d at 1180-81
26 (distinguishing “good cause” showing for sealing documents produced in
27 discovery from “compelling reasons” standard when merits-related documents are
28

part of court record). Accordingly, the terms of this protective order do not extend beyond the commencement of the trial.

5. DESIGNATING PROTECTED MATERIAL

5.1 Exercise of Restraint and Care in Designating Material for Protection.

Each Party or Non-Party that designates information or items for protection under this Order must take care to limit any such designation to specific material that qualifies under the appropriate standards. The Designating Party must designate for protection only those parts of material, documents, items, or oral or written communications that qualify so that other portions of the material, documents, items, or communications for which protection is not warranted are not swept unjustifiably within the ambit of this Order.

Mass, indiscriminate or routinized designations are prohibited. Designations that are shown to be clearly unjustified or that have been made for an improper purpose (e.g., to unnecessarily encumber the case development process or to impose unnecessary expenses and burdens on other parties) may expose the Designating Party to sanctions.

If it comes to a Designating Party's attention that information or items that it designated for protection do not qualify for protection, that Designating Party must promptly notify all other Parties that it is withdrawing the inapplicable designation.

5.2 Manner and Timing of Designations. Except as otherwise provided in this Order (see, e.g., second paragraph of section 5.2(a) below), or as otherwise stipulated or ordered, Disclosure or Discovery Material that qualifies for protection under this Order must be clearly so designated before the material is disclosed or produced.

Designation in conformity with this Order requires:

(a) for information in documentary form (e.g., paper or electronic documents, but excluding transcripts of depositions or other pretrial or trial

proceedings), that the Producing Party affix at a minimum, the legend “CONFIDENTIAL” (hereinafter “CONFIDENTIAL legend”), to each page that contains protected material. If only a portion of the material on a page qualifies for protection, the Producing Party also must clearly identify the protected portion(s) (e.g., by making appropriate markings in the margins).

A Party or Non-Party that makes original documents available for inspection need not designate them for protection until after the inspecting Party has indicated which documents it would like copied and produced. During the inspection and before the designation, all of the material made available for inspection shall be deemed “CONFIDENTIAL.” After the inspecting Party has identified the documents it wants copied and produced, the Producing Party must determine which documents, or portions thereof, qualify for protection under this Order. Then, before producing the specified documents, the Producing Party must affix the “CONFIDENTIAL legend” to each page that contains Protected Material. If only a portion of the material on a page qualifies for protection, the Producing Party also must clearly identify the protected portion(s) (e.g., by making appropriate markings in the margins).

(b) for testimony given in depositions that the Designating Party identifies the Disclosure or Discovery Material on the record, before the close of the deposition all protected testimony.

(c) for information produced in some form other than documentary and for any other tangible items, that the Producing Party affix in a prominent place on the exterior of the container or containers in which the information is stored the legend “CONFIDENTIAL.” If only a portion or portions of the information warrants protection, the Producing Party, to the extent practicable, shall identify the protected portion(s).

5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent failure to designate qualified information or items does not, standing alone, waive

1 the Designating Party's right to secure protection under this Order for such
2 material. Upon timely correction of a designation, the Receiving Party must make
3 reasonable efforts to assure that the material is treated in accordance with the
4 provisions of this Order.

5
6 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

7 6.1 Timing of Challenges. Any Party or Non-Party may challenge a
8 designation of confidentiality at any time that is consistent with the Court's
9 Scheduling Order.

10 6.2 Meet and Confer. The Challenging Party shall initiate the dispute
11 resolution process under Local Rule 37.1 et seq.

12 6.3 Joint Stipulation. Any challenge submitted to the Court shall be via a
13 joint stipulation pursuant to Local Rule 37-2.

14 6.4 The burden of persuasion in any such challenge proceeding shall be
15 on the Designating Party. Frivolous challenges, and those made for an improper
16 purpose (e.g., to harass or impose unnecessary expenses and burdens on other
17 parties) may expose the Challenging Party to sanctions. Unless the Designating
18 Party has waived or withdrawn the confidentiality designation, all parties shall
19 continue to afford the material in question the level of protection to which it is
20 entitled under the Producing Party's designation until the Court rules on the
21 challenge.

22
23 7. ACCESS TO AND USE OF PROTECTED MATERIAL

24 7.1 Basic Principles. A Receiving Party may use Protected Material that is
25 disclosed or produced by another Party or by a Non-Party in connection with this
26 Action only for prosecuting, defending, or attempting to settle this Action. Such
27 Protected Material may be disclosed only to the categories of persons and under
28 the conditions described in this Order. When the Action has been terminated, a

1 Receiving Party must comply with the provisions of section 13 below (FINAL
2 DISPOSITION).

3 Protected Material must be stored and maintained by a Receiving Party at a
4 location and in a secure manner that ensures that access is limited to the persons
5 authorized under this Order.

6 7.2 Disclosure of "CONFIDENTIAL" Information or Items. Unless
7 otherwise ordered by the court or permitted in writing by the Designating Party, a
8 Receiving Party may disclose any information or item designated
9 "CONFIDENTIAL" only to:

10 (a) the Receiving Party's Outside Counsel of Record in this Action, as
11 well as employees of said Outside Counsel of Record to whom it is reasonably
12 necessary to disclose the information for this Action;

13 (b) the officers, directors, and employees (including House Counsel)
14 of the Receiving Party to whom disclosure is reasonably necessary for this Action;

15 (c) Experts (as defined in this Order) of the Receiving Party to whom
16 disclosure is reasonably necessary for this Action and who have signed the
17 "Acknowledgment and Agreement to Be Bound" (Exhibit A);

18 (d) the court and its personnel;

19 (e) court reporters and their staff;

20 (f) professional jury or trial consultants, mock jurors, and

21 Professional Vendors to whom disclosure is reasonably necessary for this Action
22 and who have signed the "Acknowledgment and Agreement to Be Bound" (Exhibit
23 A);

24 (g) the author or recipient of a document containing the information or
25 a custodian or other person who otherwise possessed or knew the information;

26 (h) during their depositions, witnesses, and attorneys for witnesses, in
27 the Action to whom disclosure is reasonably necessary provided: (1) the deposing
28 party requests that the witness sign the form attached as Exhibit 1 hereto; and (2)

1 they will not be permitted to keep any confidential information unless they sign the
2 “Acknowledgment and Agreement to Be Bound” (Exhibit A), unless otherwise
3 agreed by the Designating Party or ordered by the court. Pages of transcribed
4 deposition testimony or exhibits to depositions that reveal Protected Material may
5 be separately bound by the court reporter and may not be disclosed to anyone
6 except as permitted under this Stipulated Protective Order; and

7 (i) any mediator or settlement officer, and their supporting personnel,
8 mutually agreed upon by any of the parties engaged in settlement discussions.

9
10 8. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED
11 IN OTHER LITIGATION

12 If a Party is served with a subpoena or a court order issued in other litigation
13 that compels disclosure of any information or items designated in this Action as
14 “CONFIDENTIAL,” that Party must:

15 (a) promptly notify in writing the Designating Party. Such notification shall
16 include a copy of the subpoena or court order;

17 (b) promptly notify in writing the party who caused the subpoena or order to
18 issue in the other litigation that some or all of the material covered by the subpoena
19 or order is subject to this Protective Order. Such notification shall include a copy
20 of this Stipulated Protective Order; and

21 (c) cooperate with respect to all reasonable procedures sought to be pursued
22 by the Designating Party whose Protected Material may be affected.

23 If the Designating Party timely seeks a protective order, the Party served
24 with the subpoena or court order shall not produce any information designated in
25 this action as “CONFIDENTIAL” before a determination by the court from which
26 the subpoena or order issued, unless the Party has obtained the Designating Party’s
27 permission. The Designating Party shall bear the burden and expense of seeking
28 protection in that court of its confidential material and nothing in these provisions

1 should be construed as authorizing or encouraging a Receiving Party in this Action
2 to disobey a lawful directive from another court.

3
4 9. A NON-PARTY'S PROTECTED MATERIAL SOUGHT TO BE
5 PRODUCED IN THIS LITIGATION

6 (a) The terms of this Order are applicable to information produced by a
7 Non-Party in this Action and designated as "CONFIDENTIAL." Such information
8 produced by Non-Parties in connection with this litigation is protected by the
9 remedies and relief provided by this Order. Nothing in these provisions should be
10 construed as prohibiting a Non-Party from seeking additional protections.

11 (b) In the event that a Party is required, by a valid discovery request, to
12 produce a Non-Party's confidential information in its possession, and the Party is
13 subject to an agreement with the Non-Party not to produce the Non-Party's
14 confidential information, then the Party shall:

15 (1) promptly notify in writing the Requesting Party and the Non-Party
16 that some or all of the information requested is subject to a confidentiality
17 agreement with a Non-Party;

18 (2) promptly provide the Non-Party with a copy of the Stipulated
19 Protective Order in this Action, the relevant discovery request(s), and a reasonably
20 specific description of the information requested; and

21 (3) make the information requested available for inspection by the
22 Non-Party, if requested.

23 (c) If the Non-Party fails to seek a protective order from this court within 14
24 days of receiving the notice and accompanying information, the Receiving Party
25 may produce the Non-Party's confidential information responsive to the discovery
26 request. If the Non-Party timely seeks a protective order, the Receiving Party shall
27 not produce any information in its possession or control that is subject to the
28 confidentiality agreement with the Non-Party before a determination by the court.

Absent a court order to the contrary, the Non-Party shall bear the burden and expense of seeking protection in this court of its Protected Material.

10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed Protected Material to any person or in any circumstance not authorized under this Stipulated Protective Order, the Receiving Party must immediately (a) notify in writing the Designating Party of the unauthorized disclosures, (b) use its best efforts to retrieve all unauthorized copies of the Protected Material, (c) inform the person or persons to whom unauthorized disclosures were made of all the terms of this Order, and (d) request such person or persons to execute the “Acknowledgment and Agreement to Be Bound” that is attached hereto as Exhibit A.

11. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE PROTECTED MATERIAL

When a Producing Party gives notice to Receiving Parties that certain inadvertently produced material is subject to a claim of privilege or other protection, the obligations of the Receiving Parties are those set forth in Federal Rule of Civil Procedure 26(b)(5)(B). This provision is not intended to modify whatever procedure may be established in an e-discovery order that provides for production without prior privilege review. Pursuant to Federal Rule of Evidence 502(d) and (e), insofar as the parties reach an agreement on the effect of disclosure of a communication or information covered by the attorney-client privilege or work product protection, the parties may incorporate their agreement in the stipulated protective order submitted to the court.

1 12. MISCELLANEOUS

2 12.1 Right to Further Relief. Nothing in this Order abridges the right of any
3 person to seek its modification by the Court in the future.

4 12.2 Right to Assert Other Objections. By stipulating to the entry of this
5 Protective Order, no Party waives any right it otherwise would have to object to
6 disclosing or producing any information or item on any ground not addressed in
7 this Stipulated Protective Order. Similarly, no Party waives any right to object on
8 any ground to use in evidence of any of the material covered by this Protective
9 Order.

10 12.3 Filing Protected Material. A Party that seeks to file under seal any
11 Protected Material must comply with Local Civil Rule 79-5. Protected Material
12 may only be filed under seal pursuant to a court order authorizing the sealing of the
13 specific Protected Material at issue. If a Party's request to file Protected Material
14 under seal is denied by the court, then the Receiving Party may file the information
15 in the public record unless otherwise instructed by the court.
16

17 13. FINAL DISPOSITION

18 After the final disposition of this Action, as defined in paragraph 4, within
19 60 days of a written request by the Designating Party, each Receiving Party must
20 return all Protected Material to the Producing Party or destroy such material. As
21 used in this subdivision, "all Protected Material" includes all copies, abstracts,
22 compilations, summaries, and any other format reproducing or capturing any of the
23 Protected Material. Whether the Protected Material is returned or destroyed, the
24 Receiving Party must submit a written certification to the Producing Party (and, if
25 not the same person or entity, to the Designating Party) by the 60 day deadline that
26 (1) identifies (by category, where appropriate) all the Protected Material that was
27 returned or destroyed and (2) affirms that the Receiving Party has not retained any
28 copies, abstracts, compilations, summaries or any other format reproducing or

capturing any of the Protected Material. Notwithstanding this provision, Counsel are entitled to retain an archival copy of all pleadings, motion papers, trial, deposition, and hearing transcripts, legal memoranda, correspondence, deposition and trial exhibits, expert reports, attorney work product, and consultant and expert work product, even if such materials contain Protected Material. Any such archival copies that contain or constitute Protected Material remain subject to this Protective Order as set forth in Section 4 (DURATION).

14. VIOLATION

Any violation of this Order may be punished by appropriate measures including, without limitation, contempt proceedings and/or monetary sanctions.

IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

DATED: January 18, 2019

LAW OFFICES OF ODION OKOJIE

By: _____/ss/_____

Odion L. Okojie, Attorneys for Plaintiffs
Pamela Brooks, et al.

DATED: January 18, 2019

DAVID IYALOMHE & ASSOCIATES

By: _____//ss//_____

David Iyalomhe, Attorneys for Plaintiffs
Pamela Brooks, et al.

DATED: January 18, 2019

STALWART LAW GROUP

By: _____//ss//_____

Dylan Ruga/Cindy Hickox, Attorneys for
Defendants Premier Apartments LLC, et al.

FOR GOOD CAUSE SHOWN, IT IS SO ORDERED.

DATED: 2/11/2019



ALEXANDER F. MacKINNON

United States Magistrate Judge

EXHIBIT AACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

I, _____ [print or type full name], of
_____ [print or type full address], declare under penalty of perjury
that I have read in its entirety and understand the Stipulated Protective Order that
was issued by the United States District Court for the Central District of California
on [date] in the case of *Pamela Brooks, et al. v. Premier Apartments LLC et al.*
2:18-cv-07872-VAP-AFM. I agree to comply with and to be bound by all the terms
of this Stipulated Protective Order and I understand and acknowledge that failure
to so comply could expose me to sanctions and punishment in the nature of
contempt. I solemnly promise that I will not disclose in any manner any
information or item that is subject to this Stipulated Protective Order to any person
or entity except in strict compliance with the provisions of this Order.
I further agree to submit to the jurisdiction of the United States District Court for
the Central District of California for enforcing the terms of this Stipulated
Protective Order, even if such enforcement proceedings occur after termination of
this action. I hereby appoint _____ [print or type full
name] of _____ [print or type full
address and telephone number] as my California agent for service of process in
connection with this action or any proceedings related to enforcement of this
Stipulated Protective Order.

Date: _____

City and State where sworn and signed: _____

Printed name: _____

Signature: _____